

## PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

475387-5(1)

To: ABELEV GARY EQ. DORSEY & WHITNEY LLP 250 PARK AVENUE NEW YORK NY 10177 USA	Patent Mail Received <b>PCT</b> FEB 06 2009 <b>NOTIFICATION OF TRANSMITTAL OF          THE INTERNATIONAL SEARCH REPORT AND          THE WRITTEN OPINION OF THE INTERNATIONAL          SEARCHING AUTHORITY, OR THE DECLARATION</b> (PCT Rule 44.1) Date of mailing (day/month/year) 30 JANUARY 2009 (30.01.2009)
Applicant's or agent's file reference 189720/PCT	<b>FOR FURTHER ACTION</b> See paragraphs 1 and 4 below
International application No. <b>PCT/US2008/081834</b>	International filing date (day/month/year) <b>30 OCTOBER 2008 (30.10.2008)</b>
Applicant <b>THE GENERAL HOSPITAL CORPORATION et al</b>	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.  
**Filing of amendments and statement under Article 19:**  
 The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):  
**When?** The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.  
**Where?** Directly to the International Bureau of WIPO, 34 chemin des Colombettes  
 1211 Geneva 20, Switzerland, Facsimile No.: +41 22 338 82 70  
**For more detailed instructions, see the notes on the accompanying sheet.**
2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ **With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:**  
☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.  
☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

## 4. Reminders


Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/KR  
 Korean Intellectual Property Office  
 Government Complex-Daejeon, 139 Seonsa-ro,  
 Seo-gu, Daejeon 302-701, Republic of Korea  
 Facsimile No. 82-42-472-7140

Authorized officer

COMMISSIONER

Telephone No. 82-42-481-5281



## NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article", "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

### INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

The attention of the applicant is drawn to the fact that amendments to the claims under Article 19 are not allowed where the International Searching Authority has declared, under Article 17(2), that no international search report would be established (see *PCT Applicant's Guide*, Volume I/A, paragraph 296).

#### What parts of the international application may be amended ?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

**When ?** Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

#### Where not to file the amendments ?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

**How ?** Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

#### What documents must/may accompany the amendments ?

**Letter (Section 205(b)):**

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

## NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:  
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:  
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:  
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or  
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:  
"Claims 1 - 10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

### "Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

**It must be in the language in which the international application is to be published.**

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

### Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Bureau under Rule 66.1bis(b), be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43bis.1(c)).

### Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.

\* Attention

Copies of the documents cited in the international search report can be searched in the following Korean Intellectual Property Office English website for three months from the date of mailing of the international search report.

<http://www.kipo.go.kr/kpo/eng/> => Patent Search => PCT-Service

ID : PCT international application number

PW : **SE44Q1HH**

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:  
ABELEV GARY ESQ.  
  
DORSEY & WHITNEY LLP 250 PARK AVENUE NEW  
YORK NY 10177 USA

# PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference  
189720/PCT

Date of mailing  
(day/month/year) 30 JANUARY 2009 (30.01.2009)

FOR FURTHER ACTION  
See paragraph 2 below

International application No. <b>PCT/US2008/081834</b>	International filing date (day/month/year) <b>30 OCTOBER 2008 (30.10.2008)</b>	Priority date(day/month/year) 30 OCTOBER 2007 (30.10.2007)
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International Patent Classification (IPC) or both national classification and IPC

G02B 6/00(2006.01); G01B 11/02(2006.01);

Applicant

**THE GENERAL HOSPITAL CORPORATION et al**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion  
☐ Box No. II Priority  
☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  
☐ Box No. IV Lack of unity of invention  
☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement  
☐ Box No. VI Certain documents cited  
☐ Box No. VII Certain defects in the international application  
☐ Box No. VIII Certain observations on the international application

## 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1 bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.  
For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/KR  
Korean Intellectual Property Office  
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Seonsa-ro, Seo-gu, Daejeon 302  
-701, Republic of Korea  
Facsimile No. 82-42-472-7140

Date of completion of this opinion  
30 JANUARY 2009 (30.01.2009)

Authorized officer

JEONG, So Yeon

Telephone No.82-42-481-5656



WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US2008/081834

Box No. 1 Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43*bis*.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

**PCT/US2008/081834**

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	1-20	YES
	Claims	None	NO
Inventive step (IS)	Claims	1-20	YES
	Claims	None	NO
Industrial applicability (IA)	Claims	1-20	YES
	Claims	None	NO

**2. Citations and explanations :**

**(1) Citations**

In the International Search Report(ISR), the following documents have been considered.

D1 : US 6567585 B2

D2 : US 5926592 A

**(2) Novelty and Inventive Step**

The invention as defined in claims 1-20 is related to a system and method for cladding mode detection.

D1, which is considered to represent the most relevant state of the art, discloses a Z sharpening for fiber confocal microscopes. And D2 discloses an optical fiber confocal imager with variable near-confocal control.

Even though D1-D2 disclose an optical fiber confocal imager, none of them teach or fairly suggest the system and method for cladding mode detection in the claimed invention.

Accordingly, none of the documents in the ISR, taken alone or in combination, disclose the special combination of features defined in the present invention. Furthermore, in the ISR documents, there are no suggestions leading a person skilled in the art towards the inventions defined by claims 1 and 11 of the present invention. Therefore, the inventions as defined in claims 1 and 11 are novel under PCT Article 33(2) and involve an inventive step under PCT Article 33(3). Claims 2-10 and 12-20 are dependent on claims 1 and 11 respectively. So, they are also considered to be novel and involve an inventive step.

**(3) Industrial Applicability**

The present invention as defined in claims 1-20 has industrial applicability under PCT Article 33(4).

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 189720/PCT	<b>FOR FURTHER ACTION</b> see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. <b>PCT/US2008/081834</b>	International filing date (day/month/year) <b>30 OCTOBER 2008 (30.10.2008)</b>	(Earliest) Priority Date (day/month/year) 30 OCTOBER 2007 (30.10.2007)
Applicant <b>THE GENERAL HOSPITAL CORPORATION et al</b>		

This International search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 3 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

## 1. Basis of the report

a. With regard to the language, the international search was carried out on the basis of:

- ☒ the international application in the language in which it was filed  
☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

b. ☐ This international search report has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).

c. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II)

3. ☐ Unity of invention is lacking (See Box No. III)

4. With regard to the title,

- ☒ the text is approved as submitted by the applicant.  
☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

- ☒ the text is approved as submitted by the applicant.  
☐ the text has been established, according to Rule 38.2, by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

- a. the figure of the drawings to be published with the abstract is Figure No. 6  
☒ as suggested by the applicant.  
☐ because the applicant failed to suggest a figure.  
☐ because this figure better characterizes the invention.
- b. ☐ none of the figure is to be published with the abstract.

**A. CLASSIFICATION OF SUBJECT MATTER**

G02B 6/00(2006.01)i, G01B 11/02(2006.01)i

According to International Patent Classification (IPC) or to both national classification and IPC

**B. FIELDS SEARCHED**

Minimum documentation searched (classification system followed by classification symbols)

IPC 8 : G02B 6/00, G01B 11/02

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Korean Utility models and applications for Utility models since 1975

Japanese Utility models and applications for Utility models since 1975

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

eKIPASS ( KIPO internal ) "Keywords: cladding mode detection, aberration"

**C. DOCUMENTS CONSIDERED TO BE RELEVANT**

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 6567585 B2 ( MARTIN RUSSELL HARRIS ) 20 May 2003 See abstract and figure 5	1-20
A	US 5926592 A ( MARTIN RUSSELL HARRIS et al. ) 20 July 1999 See abstract and figures 3, 7-8b	1-20
A	US 7267494 B2 ( HONGYU DENG et al. ) 11 September 2007 See abstract and figure 1	1-20

☐ Further documents are listed in the continuation of Box C.☒ See patent family annex.

\* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&amp;" document member of the same patent family

Date of the actual completion of the international search

30 JANUARY 2009 (30.01.2009)

Date of mailing of the international search report

30 JANUARY 2009 (30.01.2009)

Name and mailing address of the ISA/KR

Korean Intellectual Property Office  
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## INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.

PCT/US2008/081834

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 6567585 B2	20.05.2003	PQ 668100 D0 PQ 730500 D0 GB 2363025 B US 2001-0033713 A1	04.05.2000 25.05.2000 07.08.2002 25.10.2001
US 5926592 A	20.07.1999	AU 4933296 A PN 194095 D0 PN 722595 D0 CA 2215975 A1 DE 19681304 T0 JP 11-502943 JP 2007-128095 WO 96-30796 A1	16.10.1996 27.04.1995 18.01.1996 03.10.1996 16.04.1998 09.03.1999 24.05.2007 03.10.1996
US 7267494 B2	11.09.2007	US 2006-0171631 A1	03.08.2006